

REMARKS

Claims 1-14 and 17-19 are pending for the Examiner's consideration, with claims 1 and 14 being the independent claims. Applicants acknowledge with appreciation the allowance of claims 14 and 17-19, and the indication of allowability of claims 8-11. The only outstanding rejections all relate to double patenting, which are addressed below.

Obviousness-Type Double Patenting

Claims 1-3 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 21 of copending Application No. 10/867,375 ("the '375 application"). Claims 1-3 are also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 64, 65, 66 of copending Application No. 10/771,551 ("the '551 application"). Claims 1-7, 12, and 13 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5, 20, 21, 22, 25, 26 of U.S. Patent No. 6,766,799 ("the '799 patent").

Filed herewith is a Terminal Disclaimer to Obviate a Provisional Double Patenting Rejection Over a Pending "Reference" Application, executed by the assignee of the above-captioned application, for each of the '375 and '551 applications. Also filed herewith is a Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior" Patent executed by the assignee of the above-captioned application for the '799 patent. A Statement Under 37 C.F.R. § 3.73(b) establishing the right to act on behalf of the assignee with regard to the above-captioned application is also filed herewith. The filing of a terminal disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870 (Fed. Cir. 1991). The filing of a terminal disclaimer serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection. *Id.*; M.P.E.P. § 804.02. Based upon filing of the Terminal Disclaimer and accompanying fees, Applicants respectfully submit that the obviousness-type double patenting rejections should be withdrawn.

Conclusion

In view of the above remarks, all of the stated grounds of objections and rejections have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reasons, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

By

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